

## *Tribes*



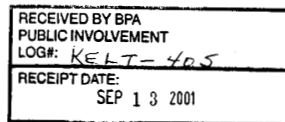
# **MUCKLESHOOT CULTURAL RESOURCES PROGRAM**

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September 4, 2001



Communications  
Bonneville Power Administration, KC-7  
P.O. Box 12999  
Portland, OR. 97212

Dear Mr. Driessen,

The Muckleshoot Wildlife and Cultural Resources Programs appreciates the opportunity to comment on the "Kangley - Echo Lake Transmission Line Project, Draft Environmental Impact Statement" ("DEIS"). The proposed project may result in harm to resources that are value to the Muckleshoot Indian Tribe within the Cedar River Watershed, an especially important traditional cultural and treaty use area. In general, the DEIS fails to acknowledge or take into account the Tribe's present and historic interests in, and utilization of resources in the Watershed that may be adversely affected by the project. As we previously noted in our letter of 2-16-2001, reasonable alternatives outside the Watershed were not fully evaluated. The preferred DEIS Alternative may have the least impact on the environment of the four alternatives evaluated, but not necessarily the least impact, over the long term, of all the alternatives that should have been considered.

The Tribe's comments relating to wildlife, cultural resources, and vegetation management are discussed below. Potential effects on fisheries and water resources of importance to the Muckleshoot Tribe are not addressed here. The views of Muckleshoot Fisheries are not represented, nor does the Tribe waive the right to comment on issues or resources other than those specifically addressed here.

## **Alternatives development (Section 1.4 page 1-5)**

The DEIS reference BPA "long range" studies looking 5-10 years into the future in order to develop the alternatives under discussion. (These studies, with completion or publication dates, should be cited and included in the literature References). The studies seem to address an extremely short-range time frame. Please explain why you consider this long range planning rather than an interim response to a perceived potential shortage, and how this project provides long-term solutions for the area.

Part of the rationale for the preferred alternative through the Watershed is that a ROW already exists there. It is logical to assume that within BPA's long range plans, the location of this additional ROW through the Watershed could lead to future additional ROW's, or "loading"

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405-001 Please see response to Comment 411-006.

BPA has sited the transmission towers to avoid sensitive natural areas such as streams, wetlands and riparian areas adjacent to streams and wetlands. After selecting these tower sites and the proposed access/spur road locations, BPA gave the Cultural Committee the opportunity to suggest that BPA move any of its facilities, with the exception of angle structures, either ahead on line or back on line, if any cultural materials could neither be harvested or relocated.

If BPA were to decide to build the project, it would inform the Culture Committee as soon as the decision is made, so that the Committee could either harvest or relocate these resources with the permission of the landowners. As mentioned to the Committee in recent correspondence, in many BPA rights-of-way, tribal members routinely harvest berries, roots, and medicinal plants under the transmission lines annually. BPA would work with the Muckleshoot Tribe as with other tribes to identify and take extra caution with vegetation management practices to avoid contaminating gathering sites.

405-002 Prior to deregulation of the electric utility industry, utilities could plan new resources such as new generation, 10 or more years out in the future. Since deregulation, new generation and additional loads can be added over a 5-10 year time frame. So, while in the past long-range planning studies were done over a longer period of time, often 20 years in the future, current planning requirements have changed the time frame considered long term.

The existing line through the CRW was built over 30 years ago. BPA's conservative estimate is that a new line and additional lines added to the infrastructure would serve loads for at least another 30 years. Please also see responses to Comments 382-004 and 382-005 and Appendix H (available on request).

405-003 It is true that the presence of any existing utility facility would be a logical choice for the siting of future proposals. BPA has no plans for additional lines at this time.

2-110

of the existing ROW's with taller transmission lines of greater capacity, or other additional construction simply because the infrastructure already exists. Such long term and cumulative effects must be considered in this document, especially considering public benefits of the ecological commitments Seattle has made for the Watershed.

405-004 Within a mid- to long range (10-25) years horizon please develop your discussion of the Canadian Entitlement, how BPA intends to address it, and how this project will provide a long-term solution.

**ROW Clearing and Maintenance** (Sections 2.1.1.4 and 2.1.5 pages 2-5, 2-11)

405-005 The ROW clearing and maintenance plans should be developed and disclosed in this document in order to evaluate adverse effects and mitigation of effects.

**Access Roads** (Section 2.1.15 page 2-7)

405-006 The EIS states that "**access road locations have not been defined**". Access routes and required stream crossings should be identified in this document in order to evaluate potential adverse effects and mitigation of effects.

**Summary of Impacts Table 2-2** page 2-19

405-007 This table should be modified to reflect the information reflected in MIT's comments, especially as regards Tribal usage of the Watershed and its resources, including the Land Use, Wildlife, Visual Resources, Cultural Resources, Health and Safety, etc).

**Land Use:** Section 3.4.9 page 3-12:

405-008 The City of Seattle and SPU acknowledge treaty rights and support traditional cultural activities of local Tribes in the Watershed, and are presently working to cooperatively identify and enhance such special uses. The statements in this Section should also acknowledge the Watershed as a special resource area utilized by tribal members, as is acknowledged in Section 3-13 on page 3-65. Other similarly affected sections include Visual Resources (3.11); Socio-economics (3.12) and Noise, Public Health, and Safety (3.14).

**Visual Resources:** Section 3.11:

405-009 Tribal members have used the area known as the Cedar River Watershed for generations specifically for it's rich resources that have provided sustenance. The land was also used for religious and spiritual purposes as it continues to be today. The document overlooks the fact that there is use within the Watershed boundaries beyond recreation. Evaluation of visual resources, through the view of a Tribal member wishing to practice a sacred tradition, was not considered.

**Section 3.8 and 4.7 Wildlife:**

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405-004 More information has been added about the Canadian Entitlement. Please see Appendix I.

405-005 Additional information about clearing and maintenance has been included in the SDEIS.

405-006 Additional information about access roads and stream crossings has been included in the SDEIS.

405-007 BPA has prepared Table 2-3 "Summary of Impacts from Alternatives," by taking the information presented in Section (Chapter) 4 "Environmental Consequences" of the SDEIS and attempting to quantify the level of impact for each resource area as low, moderate, high, or no impacts.

405-008 Comment noted.

405-009 We concur that there is use within the Cedar River Municipal Watershed beyond recreation. The DEIS stated that the Cedar River Municipal Watershed is managed as an ecological reserve (Page 3-3). The document also states that the primary use of the watershed (CRMW) is to provide a reliable, high-quality supply of (drinking) water to the region. And in addition to supplying drinking water, the CRMW is also managed for generation of electric power, for education purposes, and also for recreation i.e., swimming at Rattlesnake Lake.

Although the document did not evaluate the visual impact of a tribal member practicing a sacred tradition within the CRMW, the proposed line would be located immediately adjacent to the existing Raver-Echo Lake 500-kV Transmission Line; therefore, the proposed line would add only slight incremental visual impacts. If the impact of a transmission line would interfere with the aforementioned sacred tradition, then we would assume that such tradition would be practiced elsewhere in the CRMW where no line currently exists.

405-010 Comment noted. However, BPA disagrees with the premise that existing and proposed rights-of-way would negatively impact

405-010 The Proposed Alternative, as well as the three other alternatives considered, have the potential to negatively impact deer and elk herds of importance to the Tribe. Specifically, the disruption of the existing ROW and creation of a new one could decrease the amount of forage available. As is mentioned in the document, there is a high potential for introduction of non-native species thorough ROW ground disturbance, which are toxic to deer and elk. The ROW maintenance schedule should be included within the document, and specific proposed methods of clearing unwanted vegetation should be discussed in the document.

405-011

405-012 The Muckleshoot Tribe has offered comments relating to potential mitigation which are mentioned within the EIS. We are concerned, however, of the lack of commitment to actually implement these measures, specifically planting of forbs and grasses as ungulate habitat within the ROW after construction. We request that BPA assist in funding the already ongoing deer and elk studies within the Watershed monitor those areas that are proposed to be cleared. Clarification and specificity regarding development and implementation of aggressive vegetation management programs on page 4-67 is needed. Noxious weed controls have already been defined within the "BPA Transmission System Vegetation Management Program". An explanation as to whether to the proposed program will follow existing recommendations, or whether a new management program is required. If new programs are needed, they should be disclosed in order to evaluate impacts.

Finally, we would like BPA to commit to minimize disturbance to deer and elk within the area by preventing construction during fawning and calving periods.

**Section 3.9 and 4.8 Vegetation:**

405-013 In the "Final Vegetation Technical Report" located within the Appendices, operation and maintenance impacts for all the alternatives are considered to be low despite the concern over colonization from non-native or noxious plant species. The report argues that the stated low-level impact is warranted because invasion could be mitigated. This is contrary to what we have experienced regarding invasive species, including scotch broom. It is very difficult to eradicate these species without the use of chemical sprays, which are prohibited within the Watershed boundaries. The commitment to mitigation may not be feasible without chemicals. The report also states the cumulative effects of the project would include "loss of forested area within CRW, additional road construction, and increased colonization of non-native plants" (Tech Report pg. 36), and that "the project has a potentially high impact for spreading noxious weeds" (4-64). Invasion of noxious weeds has been identified within the document, but we feel that adequate measures to prevent and a plan to deal with introduction of these species have not been seriously considered in sufficient detail. As we have stated in previous meetings with BPA, we are very concerned about the possibility of the ROW becoming invaded with these species and prohibiting the growth of forage for animals and plants that are sacred to Muckleshoot people.

405-014 The proposed removal of riparian vegetation to construct the corridor at stream crossings could potentially destroy medicines and plants important to the Tribe. This has not been evaluated. (See Section 4.7.2.6 page 4-47). We are requesting consultation on location of stream crossings and an opportunity to identify and possibly remove plants before construction or

deer and elk herds in the area. With the removal of the over story in the forested environment and the establishment of low-growing vegetation within the cleared right-of-way, more feed would be made available for ungulates such as deer and elk, instead of less. Deer and elk need both feed and cover to survive and be healthy.

405-011 Please see response to Comment 349-005.

405-012 BPA would plant native seed to revegetate disturbed areas within the Cedar River Watershed created by the project. Doing so would minimize the potential for erosion, provide feed for ungulates such as the deer and elk, and minimize the potential for noxious weeds to sprout, or spread where they are already present.

If BPA decides to build the project this year, construction would not begin until after the Record of Decision, now scheduled for August 2003. It is our understanding that the calving and fawning period for deer and elk normally begins in March and typically ends in late spring, around the middle of June. Most, if not all, of the calving and fawning will have already taken place prior to the onset of construction activities.

405-013 Please see responses to Comments 382-017 and 394-108.

405-014 Comment noted. At the time BPA released the DEIS, the proposed transmission line had not been designed. BPA uses the environmental process to help design its projects. After identifying survey points in the field, BPA conducted a wetland and stream determination, tying the location of these sensitive resources to centerline of the proposed transmission line, and then selected tower sites in upland areas to avoid impacting wetlands and streams and their associated wetland areas. While forested wetlands would be converted to nonforested wetlands, BPA would not fill any jurisdictional wetlands as a result of the Proposed Action.

Any trees removed from the forested wetlands would be cut by hand-held equipment (chain saws) and portions of this vegetation would be left in the wetland areas for use as wildlife habitat or removed by helicopter. No mechanical clearing

vegetation removal begins. Assistance with salvage and potential enhancement of other suitable sites if required should be discussed as appropriate mitigation.

The Stable Tree Criteria is mentioned within the document, but not specifically and stated that it will be worked on more at a later time. The survey and number of trees that will be removed in all areas should have been defined within the document. Impacts on the availability of cover for deer and elk, as well as the stability of the trees left standing should have been addressed.

A suggested source of mitigation from the Muckleshoot Cultural Resources Program would be to cultivate and maintain huckleberry patches adjacent to the existing ROW and next to the chosen alternative if it is decided to move forward with this project. Many of the plants that traditionally supported native people's of the area, including huckleberries, were destroyed or do not exist within the Watershed because of past land use practices.

**Sections 3.13 and 4.12 Cultural Resources:**

The discussion on cultural resources is severely lacking in substance. The DEIS acknowledges that BPA is subject to Section 106 of the National Historic Preservation Act (NHPA) for this federal undertaking. (Section 5.4, page 5-5). Under the NHPA, the agency is responsible to identify archaeological, historic and traditional cultural resources that may be directly or indirectly adversely affected by a project; and determine appropriate strategies for mitigating adverse effects. Where the Muckleshoot Tribe has traditional use and interests within the area of potential effects for an undertaking, it must be consulted throughout the Section 106 process. The DEIS acknowledges that the project is an undertaking subject to NHPA, that cultural resources including traditional cultural properties (TCP's) have a high probability of being present and affected, and that surveys are required. However, it does not discuss the area of potential effect (APE) for the undertaking, which is an important step necessary to determine the proper scope of surveys. Audio, visual, and direct effects of ground disturbance including access roads, staging areas, borrow pits, are all factors to be taken into account when defining the APE.

The DEIS states that there is a high probability of encountering prehistoric and historic cultural resources within the project area (4-95), but the proposed action states that there is a low impact on cultural resources and contains the least number of culturally sensitive areas and no cultural resource sites within the ROW. (4-96). This document was printed before most cultural resources surveys or appropriate studies, including any TCP studies involving Tribal informants, were designed or undertaken or results made available for any of the project alternatives. The statement is made, however, that the impact to cultural resources will be low for the proposed action, based upon archival research. This is not sufficient "reasonable effort" to evidence NHPA compliance or support this conclusion. The studies must be undertaken prior to making any determination of presence, significance, eligibility, or appropriate mitigation strategies.

It is troubling that BPA is willing to make this statement well before surveys or TCP studies were completed considering that the proposed action is to effect 152 acres directly within the ROW, and over half older stands that may support cultural resources and culturally modified

would be undertaken in wetland areas. See also response to Comment 405-001.

405-015 Impacts of the Proposed Action would occur in Douglas fir dominated stands that are 36 to 75 years of age. Due to the height of the trees, additional cutting would be needed at various locations beyond the 150-foot ROW to remove danger trees. This additional cutting would be required whenever the height of trees, in combination with the topography, location and swing of the conductor, wind direction, lean, evidence of high water table, past tree failures, overall health of the tree, etc., could represent a danger to electrical transmission line reliability. Selective danger tree cutting could occur as far away as 200 feet from the edge of the ROW, but most would occur within 75 feet from the edge of the ROW.

405-016 If the landowners agrees to planting the species and the species does not grow too tall, it could be planted under the line.

405-017 The project's Area of Potential Effects (APE) is discussed in the *Draft Cultural Resource Survey Technical Report* (Bialas 2001). It consists of a 300-foot (91-meter)-wide corridor containing the 150-foot (45.5-foot)-wide construction corridor and a 150-foot (45.5-meter)-wide danger tree removal zone. Some facilities, such as the Echo Lake Substation expansion area, extend beyond the construction corridor. Access roads and staging areas also would be used but their precise locations have not yet been defined.

405-018 The statement on page 4-96 that impact to cultural resources is expected to be low was based on a sensitivity study of the project (DeBoer 2000). The *Draft Cultural Resource Survey Technical Report* (Bialas 2001), based on an intensive survey with subsurface testing, located only two cultural resources and recommended both as not eligible for listing in the National Register of Historic Places.

BPA will continue consulting with the Muckleshoot Tribe to request the Tribe's concerns about potential project impacts and mitigation measures. We believe that the environmental analysis, including cultural and social impacts, can be completed.

trees. Nor does this acreage take into account areas of visual, audial, and indirect effects of the project, which extend the APE. In addition, the locations of access roads has yet to be determined, and will not be available until the FEIS is published. Cultural surveys must be completed for road corridors, for stream crossings, for substation and staging areas and borrow pits, with the Tribe consulted on the locations beforehand to identify and cultural concerns. We question whether in light of these omissions, the full environmental analysis including cultural and social impacts, can be completed.

405-019 We are pleased to see BPA's commitment to work with the Tribe and to avoid sensitive areas if the proposed project is built. Such commitments would be appropriately documented in an MOA evidencing the project NHPA compliance. We feel that to provide comments concerning protection of cultural resources would be premature, as most necessary surveys and studies, including ethnohistoric or TCP studies, have not yet been undertaken or their proper scope discussed by BPA with Cultural Resource Program staff.

**Other Matters:**

405-020 The expansion of Echo Lake Substation was not mentioned as being part of the transmission line proposal during scoping meetings with the Muckleshoot Tribe. We would like to recommend that the area for expansion, as well as all access roads, stream crossings, and proposed staging areas, be surveyed for cultural resources before construction.

405-021 The Tribe has made repeated requests for BPA assistance in obtaining timber cleared from the ROW, including a written request dated 2-16-01. Additionally, a copy of the timber cruise for the proposed project was requested, and was promised to the Tribe in a letter dated 3/8/01. At this time we have not received the requested information. Please forward these documents to myself as soon as possible.

405-022 In conclusion, this DEIS seems premature and insufficient in a number of subject areas, where locations of elements of the project are not yet established or management or mitigation plans are not in place so that environmental impacts cannot be properly analyzed. At this time, we recommend the "No Action Alternative" until such a time that we may fully evaluate all the necessary studies to determine the impact to the resources within the proposed project area. Until that time, we would like to continue consultation and propose a meeting within the next month. Please call me at your earliest convenience to schedule a time with the Culture Committee and staff.

Sincerely,



Melissa Calvert, Director  
Muckleshoot Wildlife and Cultural Resources Programs

405-019 BPA will be pleased to enter into a Memorandum of Agreement (MOA) regarding National Historic Preservation Act (NHPA) compliance, if continued analysis and consultation determines that the project would affect one or more National Register of Historic Places properties and avoidance or mitigation is needed. BPA looks forward to receiving any information the Muckleshoot Tribe may have on traditional cultural properties or uses of the project area.

405-020 The Proposed Action calls for construction of nine miles of transmission line and the expansion of Echo Lake Substation by approximately three acres for the purpose of constructing a new bay to accommodate the additional transmission line. BPA regrets this oversight if it was not mentioned during the scoping meeting with representatives of the Muckleshoot and Snoqualmie tribes. With respect to surveying these areas for cultural resources, BPA cultural resource contractor, HRA Inc., surveyed the substation expansion area at the time the line was surveyed during summer 2001. Although the proposed substation expansion area was surveyed, no survey was undertaken for any staging areas because they were unknown at the time. Any area where ground disturbing activities would take place would be surveyed for cultural resources before construction.

405-021 Once BPA has a timber cruise, we would be willing to share that information with the tribe.

405-022 Comment noted. BPA received many requests for more information as a result of the review of the draft EIS and decided to publish a SDEIS to respond to the comments.